

HOMES POLICY DEVELOPMENT GROUP

12 MARCH 2019

PRIVATE SECTOR HOUSING FEES AND CHARGES 2019/20 AND ENFORCEMENT UPDATE

Cabinet Member: Cllr Ray Stanley
Responsible Officer: Simon Newcombe, Group Manager for Public Health and Regulatory Services

Reason for Report: To provide members with the revised fees and charges in addition to an enforcement update for the relevant statutory and discretionary Private Sector Housing functions within the Community Team of Public Health and Regulatory Services.

RECOMMENDATIONS:

- (1) That Cabinet approve the revised fees and charges as set out in Annex 1.
- (2) That Public Health and Regulatory Services are authorised to enforce The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 as amended 2016.
- (3) That a charge is made for providing copies of the Mandatory HMO Licensing Public Register when requested.

Relationship to the Corporate Plan: This report relates to the economy, homes and community elements for the corporate plan priorities, by recharging for officer time in relation to enforcement activities, Houses in Multiple Occupation (HMO) licensing and recovering costs associated with non-statutory services.

Financial Implications: The revised fees and charges are set out in Annex1 of the report. The fees have been updated to reflect current service delivery costs. Any income generated from this activity is unpredictable based on the nature of enforcement action. It is therefore not possible to forecast any income levels for the year. It is important to remember that that this is not an income-generating stream, but recovering the cost of those services where the Council can lawfully do so. Targets are not therefore appropriate, as this might appear to incentivise enforcement action – which is categorically not the way the service is operated.

Legal Implications: Where there are specific provisions under legislation, statutory functions or discretionary services for fees to be charged then these are indicated in the body of the report. In the event that charges are properly due but are not paid, legal proceedings may be required.

Risk Assessment: There are no major risks. A failure to update the relevant fees and charges could mean we are not able to adequately recover costs where we are able to do so.

Equality Impact Assessment: A full assessment is not necessary for this report. The charges are set and applicable to the service being provided and do not disadvantage any protected characteristics or specific groups.

1.0 Introduction

1.1 Private Sector Housing has a duty to ensure that private accommodation meets minimum standards. In particular there are regulations for the licensing, management and use of houses in multiple occupation (HMO), carbon monoxide detectors and smoke alarms, and hazards within the home.

1.2 All enforcement activities and relevant fees and charges within this report are set out in compliance with the legislation and the Public Health Services Enforcement Policy adopted in August 2016 and the draft Operations Directorate Enforcement Policy 2019.

2.0 Changes to the fees and charges

2.1 A breakdown of the Council's current and proposed charges in respect of the private sector housing functions is included in Annex 1.

HMO Licensing

2.2 Section 63(3) of the 2004 Act gives the Council the power to recover all reasonable costs associated with the administration of the HMO licensing function.

2.3 The officer time and resources involved in processing a new application have been reviewed and a revised fee calculated. As part of this review the issuing of licence renewals has also been considered.

Mandatory HMO Licensing Public Register

2.4 Section 232 of the Housing Act 2004 allows the council to make a reasonable fee for supplying a person with a copy of the register if requested.

2.5 It is proposed to charge a nominal administration fee for providing the register in electronic form or hardcopy. Details of the proposed charges can be found in Annex 1.

2.6 An extract from the register will be provided on our website free of charge and the charges will only apply for requests for the full register.

Charging for enforcement action

2.7 The Housing Act 2004 section 49 gives the local housing authority the power to charge for certain enforcement action. The provisions are clear that only the costs associated with determining whether enforcement action is

necessary, identifying the type of action and the serving of the notice can be recovered.

- 2.8 The average officer time and resources for carrying out these functions have been recalculated and a revised standard fee has been proposed.
- 2.9 The charge can be applied to all enforcement action under part one of the Act; we currently apply the charge to Improvement Notices, Prohibition Orders, Emergency Remedial Action, Emergency Prohibition Orders and Demolition Orders.
- 2.10 A demand for payment of the charge will be applied where Prohibition Orders, Emergency Remedial Action Notices and Emergency Prohibition Orders are served. The charge for a Demolition Orders will also include the survey cost that is required as part of the serving of the order.
- 2.11 This is a change from the previous approach as we propose to charge for Prohibition Orders and Demolition Orders on service rather than where there is non-compliance in order to be more consistent with section 49 of the Act (see 2.7). These are the more complex and serious enforcement actions in respect of private sector housing.
- 2.12 Where an Improvement Notice is served the charge will be applied where there is non-compliance with the notice only. This will encourage compliance with notice requirements and, as these are relatively common notices addressing non-urgent improvements, then this approach is designed to increase housing standards as widely as possible.
- 2.13 It is not considered appropriate to charge for the service of Hazard Awareness Notices as there is no penalty for non-compliance, it is a recommendation of the work to be carried out and it is not placed as a local land charge.

Immigration housing request visits

- 2.14 Historically applications to live and/or work in the UK have required the local housing authority to undertake an inspection of the proposed living accommodation to check its suitability and ensure there would not be overcrowding. These visits no longer need to be undertaken by the local housing authority as part of an application but occasionally the team will receive a request to carry out a visit and provide a report.
- 2.15 As this is not a statutory requirement it is acceptable for the Council to charge for the provision of this service. The proposed fee covers the average amount of officer time involved in dealing with a request, visiting and producing the relevant report.

Financial penalties for Housing Act offences

- 2.16 The Housing and Planning Act 2016 introduces an amendment to the Housing Act 2004 to allow local housing authorities to impose a financial penalty on an owner of a property where they have failed to comply with provisions under

the 2004 Act as an alternative to prosecution. The maximum penalty is £30,000.

Penalty Charges for offences under the Smoke and Carbon Monoxide Alarm (England) Regulations 2015

- 2.17 There is no change to the penalty under these regulations. The Council has already introduced the maximum penalty of £5,000 with a 25% reduction if payment is made within 14 days of the demand for payment.

Financial penalties for offences under the Electrical Safety Standards

- 2.18 Section 122 of the Housing and Planning Act 2016 imposes electrical safety standards for properties let by private landlords. The following section 123 makes provision for the local housing authority to impose a financial penalty on an owner of a property where they have failed to comply with the electrical safety standards.
- 2.19 Neither section has currently been brought into force.

Penalties for offences under The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 as amended 2016

- 2.20 The regulations require that private rented domestic properties meet a minimum energy performance level before they can be rented out. The regulations came into force on 1st October 2017 and from 1st April 2018 landlords of certain domestic properties may not grant a tenancy to new or existing tenants if their property has an EPC (energy performance certificate) rating of band F or G. From 1st April 2020 landlords must not continue to let a domestic property that has already been let if the property has an EPC rating of band F or G.
- 2.21 Local authorities have responsibility for enforcing these regulations which means it can be enforced by either Trading Standards Officers or Environmental Health Officers. It is recommended that the local housing authority should be the enforcing body for the domestic private rented part of the regulations and this would sit within Public Health and Regulatory Services at Mid Devon. Commercial properties are required to be enforced by Trading Standards under the regulations.
- 2.22 Non-compliance with any notice served under the regulations may result in a financial penalty. The regulations set the maximum amount of penalty that can be administered. It is recommended that the maximum fines are agreed for contraventions as detailed in Annex 1.
- 2.23 In addition to a financial penalty the council may serve a Publication Penalty. This means that we can publish details of the landlords breach on a publicly accessible part of the Private Rental Sector (PRS) Exemptions Register and should remain on the register for a minimum of 12-months.

Works in default

2.24 As set out by provisions contained in Schedule 3 Part 3 of the Housing Act 2004, it is proposed that interest is to be paid on all costs associated with carrying out works in default (including the costs of the work itself) where the demand for payment remains unpaid after the initial 28 days. A £100 administrative fee is proposed with an interest rate of 3% applied per annum.

Contact for more Information: Tanya Wenham, Team Leader (Community Team) 01884 244610 or twenham@middevon.gov.uk or Simon Newcombe, Group Manager for Public Health and Regulatory Services 01884 244615 or snewcombe@middevon.gov.uk.

Circulation of the Report:

Cllr Ray Stanley, Cabinet Member for Housing
Members of the Homes PDG
Leadership Team
Financial Services
Legal Services
Group Manager for Performance, Governance and Data Security

Annex 1

Mid Devon District Council Public Health and Regulatory Services (Community Team) Private Sector Housing Fees and Charges 2019/20

HMO licensing		
New licence	Fee 2019/20	Previous fee 18/19
3-5 Units	£820	£793
6-10 units	£876	£838
11+ units	£933	£883
Renewal		
3-5 Units	£673	£658
6-10 units	£701	£680
11+ units	£729	£703

HMO Licensing Public Register	
	Charge
Request for full register electronically	£5
Request for full register hardcopy	£8

Charging for enforcement action		
	Charge 2019/20	Previous Charge 18/19
Improvement notice	£438	£333
Prohibition Order	£438	£333
Emergency Remedial Action	£438	£333
Emergency prohibition order	£438	£333
Demolition Order	£438 plus survey fees	£333

Immigration housing request visits		
	Fee 2019/20	Previous Fee 18/19
All requests	£261	£199

Financial penalties	
	Penalty
Smoke and carbon monoxide alarms	£5000 reducing by 25% if paid within 14 days of demand
Electrical Safety Standards	Not yet in force
Housing Act offences	Financial penalty as alternative to prosecution up to £30,000

Energy Efficiency Regulations		
	Penalty	
Renting out a non-compliant property	Less than three months in breach	£2000 and Publication penalty
	Three months or more in breach	£4000 and Publication penalty
Providing false or misleading information on the Exemption register	£1000 and Publication penalty	
Failing to comply with a compliance notice	£2000 and publication penalty	

- These penalties are applied to each property where there is a breach to a maximum of £5000 per property
- Publication penalty – some of the details of the financial penalties are published on the publicly accessible part of the PRS Exemptions Register

Works in default	
	Charge
Interest on works and associated costs	Cost of the work plus £100 admin fee plus 3% interest per annum